

REMARKS

This Amendment is responsive to the Office Action dated December 22, 2009. Applicant has amended claims 8, 9 and 33, and has added new claims 45–47. Claims 1, 3–11, 13–22, 24–29, 31–36, 38–43 and 45–47 are pending upon entry of this Amendment.

Claim Rejections Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1, 3, 4, 7–11, 13, 16–19, 22, 24, 25, 28, 29, 31–36, 38–41, and 43 under 35 U.S.C. § 103(a) as being obvious by Rueter (U.S. Patent No. 5,944,745) in view of Hatlestad et al. (U.S. Patent Application No. 2004/0122294) and Duffin et al. (U.S. Patent No. 6,292,698). The Examiner also rejected claims 5, 6, 14, 15, 26, and 27 under 35 U.S.C. § 103(a) as being unpatentable over Rueter in view of Hatlestad et al. and Duffin et al. and Hwang (U.S. Patent No. 5,920,271). In addition, the Examiner rejected claims 20, 21 and 42 under 35 U.S.C. § 103(a) as being unpatentable over Rueter in view of Hatlestad et al. and Duffin et al. and Webb et al. (U.S. Patent No. 7,060,031).

Applicant respectfully traverses these rejections. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested an apparent reason to arrive at the claimed invention.

Claims 1, 3–7, 17–22, 24–29, 31 and 32

Claim 1 recites a method comprising receiving events at a prioritization engine from one or more remote monitors, wherein the one or more remote monitors obtain the events from interrogation of a plurality of medical devices implanted within different patients, wherein the events include therapy events and diagnostic events, and wherein the prioritization engine and the one or more remote monitors are both external to the patients. Claim 1 further recites prioritizing, with the prioritization engine, the received events; and presenting, with a user interface device, a list of the patients and a list of the events for each of the patients based on the prioritization.

Applicant respectfully submits that the applied references fail to disclose all of the requirements of Applicant's claim 1. As one example, the applied references fail to disclose or suggest "*prioritizing, with the prioritization engine, the received events; and presenting, with a*

user interface device, a list of the patients and a list of the events for each of the patients based on the prioritization,” as recited in Applicant’s claim 1.

Applicant’s claim 1 recites “prioritizing . . . the received events.” The “received events” recited in Applicant’s claim 1 relate back to the “events” received “from one or more remote monitors” recited in Applicant’s claim 1. The “one or more remote monitors” recited in Applicant’s claim 1 “obtain the events from interrogation of a plurality of medical devices implanted within different patients.” Thus, the “received events” recited in Applicant’s claim 1 also relate back to events that are obtained from a plurality of medical devices implanted in different patients.

In support of the rejection of Applicant’s claim 1, the Examiner acknowledged that Rueter in view of Hatlestad et al. fails to teach “prioritizing events obtained from a plurality of medical devices implanted in different patients; and presenting a list of the patients and a list of the events for each of the patients based on the prioritization.” Therefore, the Examiner appears to have acknowledged that Rueter in view of Hatlestad et al. fails to disclose “prioritizing, with the prioritization engine, the received events; and presenting, with a user interface device, a list of the patients and a list of the events for each of the patients based on the prioritization,” as recited in Applicant’s claim 1. In order to overcome this deficiency in Rueter in view of Hatlestad et al., the Examiner turned to Duffin et al.

However, Duffin et al. also fails to disclose “prioritizing, with the prioritization engine, the received events; and presenting, with a user interface device, a list of the patients and a list of the events for each of the patients based on the prioritization,” as recited in Applicant’s claim 1. Duffin et al. makes no mention of prioritization of received events. Moreover, the Examiner does not assert that Duffin et al. mentions the prioritization of received events. Therefore, Duffin et al. fails to overcome the deficiencies already acknowledged by the Examiner with respect to Rueter in view of Hatlestad et al.

The Examiner appears to have asserted that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to combine the teachings of Rueter in view of Hatlestad et al. and the teachings of Duffin et al. to arrive at the invention defined by Applicant’s claim 1. Applicant respectfully disagrees. As already discussed above, the Examiner acknowledged that Rueter in view of Hatlestad et al. fails to teach “prioritizing, with the prioritization engine, the received events; and presenting, with a user interface device, a list

of the patients and a list of the events for each of the patients based on the prioritization,” as recited in Applicant’s claim 1. Duffin et al. also fails to teach such features. Moreover, the Examiner’s proposed combination does not appear to produce a method or a device for performing the same that includes such features. Accordingly, the Examiner has not established a *prima facie* case of obviousness with respect to Applicant’s claim 1.

More specifically, with respect to the Examiner’s proposed combination, if the teachings of a first set of references (i.e., Rueter in view Hatlestad et al.) and of a second set of references (i.e., Duffin et al.) each fail to disclose one or more features of Applicant’s claim 1, then the combination of the teachings cannot teach these features without at least one of the references being modified to include such features. The Examiner’s proposed combination involves “combining the prioritization method taught by [Rueter] with the features of Hatlestad [] and the telemetry system for implantable medical devices taught by Duffin.” However, the Examiner’s proposed combination mentions nothing about modifying any of the references to include “prioritizing, with the prioritization engine, the received events; and presenting, with a user interface device, a list of the patients and a list of the events for each of the patients based on the prioritization,” as recited in Applicant’s claim 1. Because these features were not taught individually within the references, any combination of the references that does not involve a modification of the references cannot produce the invention defined by Applicant’s claim 1.

The Examiner’s proposed combination mentions nothing about modifying either of the references. As such, it appears that the Examiner’s proposed combination merely involves the placing of three separate and distinct systems (i.e., the systems of Rueter, Hatlestad et al. and Duffin et al.) in proximity to each other, and conceptualizing a single composite system that includes all three of these independent systems. Such a combination does not produce a method or device that includes all of the requirements of Applicant’s claim 1.

If the Examiner’s proposed combination of references does not produce a method or device that includes all of the features of Applicant’s claim 1, then any assertion that the Examiner’s proposed combination would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention is not sufficient for establishing that the invention defined by Applicant’s claim 1 would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention. Accordingly, the Examiner has not established a *prima facie* case of obviousness with respect to Applicant’s claim 1.

Independent claims 17 and 29 recite limitations that are similar to those discussed above with respect to independent claim 1. For example, independent claim 17 recites “a prioritization engine to receive events from one or more remote monitors, and to prioritize the received events, wherein the one or more remote monitors obtain the events from interrogation of a plurality of medical devices implanted within different patients, wherein the events include therapy events and diagnostic events, and wherein the prioritization engine and the one or more remote monitors are both external to the patients; and a user interface device to present a list of the patients and a list of the events for each of the patients based on the prioritization.”

As another example, independent claim 29 recites “instructions for causing a programmable processor to . . . receive events from a plurality of remote monitors, wherein each of the remote monitors obtains the events from interrogation of a medical device implanted within a different patient, wherein the events include therapy events and diagnostic events, and wherein the programmable processor and the remote monitors are both external to the patients; prioritize the received events; and present a list of the patients and a list of the events for each of the patients based on the prioritization.”

The rejection of independent claims 17 and 29 appears to have relied upon the same rationale as that which was discussed above with respect to independent claim 1. Therefore, Applicant submits that the Examiner has not established a *prima facie* case of obviousness with respect to claims 17 and 29 for at least reasons similar to those described above with respect to independent claim 1.

Claims 3–7, 18–22, 24–28, 31 and 32 depend either directly or indirectly from independent claims 1, 17 and 29. The rejection of these dependent claims incorporated the rationale relied upon for the rejection of independent claims 1, 17 and 29. Moreover, Hwang and Webb et al. each fail to overcome the deficiencies already discussed above with respect to Rueter in view of Hatlestad et al. and Duffin et al. Therefore, the Examiner has not established a *prima facie* of obviousness with respect to dependent claims 3–7, 18–22, 24–28, 31 and 32 for at least the reasons described above with respect to claims 1, 17 and 29. In light of the deficiencies described with respect to the rejection of the independent claims, Applicant reserves further comments concerning the rejection of the dependent claims, but neither admits nor acquiesces in the propriety of the Office Action’s interpretation of, or application of art to, such claims.

For at least these reasons, the Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103(a) with respect to Applicant's claims 1, 3–7, 17–22, 24–29, 31 and 32. Withdrawal of this rejection is respectfully requested.

Claims 8–11, 13–16, 33–36 and 38

Claim 8, as amended, recites a method comprising interrogating, with one or more remote monitors, a plurality of medical devices implanted in different patients to obtain event data; receiving, with a prioritization engine, the event data from the one or more remote monitors, wherein the event data describes a plurality of events that includes at least one of a therapy event and a diagnostic event, and wherein the prioritization engine is external to the patients; and assigning, with the prioritization engine, a relative importance to each of the events described by the received event data.

The applied references fail to disclose or suggest “*receiving, with a prioritization engine, the event data from the one or more remote monitors, wherein the event data describes a plurality of events that includes at least one of a therapy event and a diagnostic event, and wherein the prioritization engine is external to the patients; and assigning, with the prioritization engine, a relative importance to each of the events described by the received event data,*

” as recited in amended claim 8. Moreover, the Examiner’s proposed combination does not appear to produce a method or a device for performing the same that includes all of the features recited in amended claim 8. Accordingly, Applicant submits that the Examiner has not established a prima facie case of obviousness with respect to Applicant’s claim 8 as amended.

Independent claim 33, as amended, recites limitations that are similar to those discussed above with respect to amended claim 8. For example, independent claim 33 recites “instructions for causing a programmable processor to . . . receive event data from one or more remote monitors, wherein the one or more remote monitors interrogate a plurality of medical devices implanted in different patients to obtain the event data, wherein the event data describes a plurality of events that includes at least one of a therapy event and a diagnostic event; and assign a relative importance to each event described by the received event data, wherein the programmable processor is external to the patients.” The rejection of independent claim 33 appears to have relied upon the same rationale as that which was discussed above with respect to independent claim 8. Therefore, Applicant submits that the Examiner has not established a

prima facie case of obviousness with respect to amended claim 33 for at least reasons similar to those described above with respect to independent claim 8.

Claims 9–11, 13–16, 34–36 and 38 depend either directly or indirectly from independent claims 8 and 33. The rejection of these dependent claims incorporated the rationale relied upon for the rejection of independent claims 8 and 33. Moreover, Hwang does not overcome the deficiencies already discussed above with respect to Rueter in view of Hatlestad et al. and Duffin et al. Therefore, the Examiner has not established a prima facie of obviousness with respect to dependent claims 9–11, 13–16, 34–36 and 38 for at least the reasons described above with respect to claims 8 and 33. In light of the deficiencies described with respect to the rejection of the independent claims, Applicant reserves further comments concerning the rejection of the dependent claims, but neither admits nor acquiesces in the propriety of the Office Action's interpretation of, or application of art to, such claims.

For at least these reasons, the Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103(a) with respect to Applicant's claims 8–11, 13–16, 33–36 and 38. Withdrawal of this rejection is respectfully requested.

Claims 39–43

Claim 39 recites a device comprising a prioritization engine to receive events from a plurality of remote monitors, and to prioritize the received events, wherein each of the remote monitors obtains the events from interrogation of a medical device implanted within a different patient, wherein the events include therapy events and diagnostic events, and wherein the prioritization engine and the remote monitors are both external to the patient; and a database to store the prioritized events.

Applicant submits that the applied references fail to disclose all of the requirements of Applicant's claim 39. As one example, the applied references fail to disclose or suggest "*a prioritization engine to receive events from a plurality of remote monitors, and to prioritize the received events, wherein each of the remote monitors obtains the events from interrogation of a medical device implanted within a different patient, wherein the events include therapy events and diagnostic events, and wherein the prioritization engine and the remote monitors are both external to the patient,*" as recited in Applicant's claim 39.

Applicant's claim 39 recites "a prioritization engine . . . to prioritize the received events." The "received events" recited in Applicant's claim 39 relate back to the "events" received "from a plurality of remote monitors" recited in claim 39. Each of the "remote monitors" recited in Applicant's claim 39 "obtains the events from interrogation of a medical device implanted within a different patient" Thus, the "received events" recited in Applicant's claim 39 relate back to events that are obtained from a plurality of medical devices implanted in different patients.

In support of the rejection of Applicant's claim 39, the Examiner acknowledged that Rueter in view of Hatlestad et al. fails to teach "prioritizing events obtained from a plurality of medical devices implanted in different patients; and presenting a list of the patients and a list of the events for each of the patients based on the prioritization." Therefore, the Examiner appears to have acknowledged that Rueter in view of Hatlestad et al. fails to disclose "a prioritization engine to receive events from a plurality of remote monitors, and to prioritize the received events, wherein each of the remote monitors obtains the events from interrogation of a medical device implanted within a different patient, wherein the events include therapy events and diagnostic events, and wherein the prioritization engine and the remote monitors are both external to the patient," as recited in Applicant's claim 39. In order to overcome this deficiency in Rueter in view of Hatlestad et al., the Examiner turned to Duffin et al.

However, Duffin et al. also fails to disclose "a prioritization engine to receive events from a plurality of remote monitors, and to prioritize the received events, wherein each of the remote monitors obtains the events from interrogation of a medical device implanted within a different patient, wherein the events include therapy events and diagnostic events, and wherein the prioritization engine and the remote monitors are both external to the patient," as recited in Applicant's claim 39. Duffin et al. makes no mention of a prioritization engine to prioritize received events. Moreover, the Examiner does not assert that Duffin et al. teaches a prioritization engine to prioritize received events. Therefore, Duffin et al. fails to overcome the deficiencies already acknowledged by the Examiner with respect to Rueter in view of Hatlestad et al.

The Examiner appears to have asserted that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to combine the teachings of Rueter in view of Hatlestad et al. and the teachings of Duffin et al. to arrive at the invention defined by Applicant's claim 39. Applicant respectfully disagrees. The Examiner's proposed combination

does not appear to produce a device that includes a “a prioritization engine to receive events from a plurality of remote monitors, and to prioritize the received events, wherein each of the remote monitors obtains the events from interrogation of a medical device implanted within a different patient, wherein the events include therapy events and diagnostic events, and wherein the prioritization engine and the remote monitors are both external to the patient.” Accordingly, the Examiner has not established a *prima facie* case of obviousness with respect to Applicant’s claim 39.

Claims 40– 43 depend from independent claim 39 and incorporate all of the limitations of independent claim 39. The rejection of these dependent claims incorporated the rationale relied upon for the rejection of independent claim 39. Moreover, Webb et al. does not overcome the deficiencies already discussed above with respect to Rueter in view of Hatlestad et al. and Duffin et al. Therefore, the Examiner has not established a *prima facie* case of obviousness with respect to dependent claims 40, 41 and 43 for at least the reasons described above with respect to claim 8. In light of the deficiencies described with respect to the rejection of the independent claims, Applicant reserves further comments concerning the rejection of the dependent claims, but neither admits nor acquiesces in the propriety of the Office Action’s interpretation of, or application of art to, such claims.

For at least these reasons, the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) with respect to Applicant’s claims 39–43. Withdrawal of this rejection is respectfully requested.

New Claims

Applicant has added new claims 45–47 to the pending application. The applied references fail to disclose or suggest the inventions defined by Applicant’s new claims, and provide no teaching that would have suggested an apparent reason to arrive at the claimed inventions. As one example, claims 45–47 depend from one of independent claims 1 and 17. Therefore, the applied references fail to disclose or suggest all of the requirements of claims 45–47 for at least the reasons discussed above with respect to claims 1 and 17. No new matter has been added by the new claims. Applicant respectfully requests consideration and allowance of new claims 45–47.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date: 03-18 - 2010 By: Gregory J. Albin
SHUMAKER & SIEFFERT, P.A. Name: Gregory J. Albin
1625 Radio Drive, Suite 300 Reg. No.: 56,292
Woodbury, Minnesota 55125
Telephone: 651.286.8366
Facsimile: 651.735.1102